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Attorneys for SLF Fire Victim Claimants

11 UNITED STATES BANKRUPTCY COURT

12 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

13 In re
14 PG&E CORPORATION,
15 and,
16 PACIFIC GAS & ELECTRIC COMPANY,
17 Debtors.

18 Affects:

- 19 ☐ PG&E Corporation
20 ☐ Pacific Gas & Electric Company
21 ☒ Both Debtors

22 * All papers shall be filed in Lead Case,
23 No. 19-30088 (DM).

Case No. 19-30088 (DM)

Chapter 11

(Lead Case Jointly Administered)

BRIEF RE: ESTIMATION PROCESS
PURSUANT TO 11 U.S.C. §§ 105(a) and
502(c) FOR THE ESTABLISHMENT OF
WILDFIRE CLAIMS ESTIMATION
PROCEDURES

[Docket No. 3091]

Hearing:

Date: August 27, 2019

Time: 9:30 a.m.

Ctrm: Courtroom 17, 16th Floor

Place: United States Bankruptcy Court
San Francisco, CA 94102

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1 TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY COURT
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
3 PARTIES:

4 The Singleton Law Firm (“SLF”) and Marshack Hays LLP, together with several other firms,
5 represent approximately 5,300 victims of the fires started by PG&E Corporation (“PG&E”) and/or
6 Pacific Gas and Electric Company (“PGE Company,” collectively with PG&E the “Debtors”) in
7 2015 (“Butte Fire”), 2017 (the twenty fires collectively referred to as the “North Bay Fires”) and
8 2018 (“Camp Fire”).¹ The SLF Claimants submit this brief (“Brief”) in response to the Court's
9 continued status conference re: establishment of a wildfire claims estimation procedures pursuant to
10 11 U.S.C. §§ 105(a) and 502(c).

11 **A. Preliminary Statement**

12 SLF Claimants have reviewed the Court’s Order Regarding Further Hearings on Estimation
13 Motion and Other Case Scheduling Matters (“Order”), Dk. No. 3619, entered on August 20, 2019, in
14 which the parties are instructed to discuss proposed procedures. In order to fully respond to the items
15 raised in the Order, SLF Claimants intend to file a further position paper after conferring with
16 counsel, to be filed by Monday August 26, 2019.

17 **B. Participants at Estimation Hearings**

18 The SLF Claimants contend the following parties should be able to participate in any
19 estimation proceeding:

- 20 1. Debtor;
- 21 2. Tort Claimants Committee – including corresponding State Court fire litigation
22 counsel (we understand this to be Norcal Leadership);
- 23 3. SLF Claimants; and
- 24 4. Anyone else who requests to participate within the deadline set by court and who the

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27 ¹ The claimants represented by SLF, Marshack Hays LLP, and other firms are jointly referred to as
28 the “SLF Claimants.”

1 court further decides should be allowed to participate.

2 SLF Claimants do not know if the Official Committee of Unsecured Creditors ("OCC"), or
3 other creditors, intend to participate in the estimation proceeding. As such SLF Claimants propose
4 the Status Conference be continued for twenty (20) days so that during this time period other
5 creditors may make a written request to participate if they wish to. Thereafter, the court can
6 determine at the continued status conference whether to allow them to participate at the continued
7 status conference.

8 **C. Discovery**

9 The court's Order provides that:

10 "C. [t]he court wishes comments, particularly from Tubbs fire litigation counsel on
11 both sides, as to what might be helpful in any coordination between setting the court's
12 estimation schedule (Phase 3) and the timing of Tubbs fire trial. Related is whether
13 the Debtors are willing and able to work with plaintiffs' counsel to speed up the
14 scheduling of the Tubbs fire trial..."

15 ...

16 "E. The court wants a full discussion among counsel as to what discovery will be
17 necessary, and what is the timeframe, preparatory to the scheduling of the final
18 estimation proceedings."

19 See, Dk No. 3619, 4:20-26.

20 SLF Claimants do not believe that there is a procedure by which the court could come to an
21 accurate and fair estimation of all 21 fires under the Debtors' current proposed Timeline.² SLF
22 Claimants will address this further at the status conference or the pleading to be filed as referenced
23 in the preliminary statement. SLF Claimants believe substantial discovery needs to be conducted
24 which SLF Claimants will discuss with the Court. Preliminarily, SLF Claimants request the

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27 ² Terms not defined herein are as defined in the Court's Order.

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1 following initial discovery to be produced by August 30, 2019:

- 2 1. Debtors must produce all documents that have previously been produced and any
3 documents that have otherwise been requested in all litigation relating to the 21 fires;
4 and
- 5 2. Copies of the Cal Fire reports without redactions (including all unredacted
6 attachments), for each fire.

7 Further, SLF Claimants respectfully request the court schedule:

- 8 1. Physical inspections of the fire ignition sites, and the equipment alleged to be
9 involved in the cause and origin, for each fire.
10 • We are unable to propose dates at this time until the Court has established the
11 estimation trial date.
- 12 2. Depositions of the authors of, the percipient witnesses to the fire, and any experts
13 who rendered opinions used in, each of the Cal Fire reports.
14 • We are unable to propose dates at this time until the Court has established the
15 estimation trial date.
- 16 3. Persons Most Qualified (PMQ) depositions from Debtors with respect to the cause,
17 origin, and other relevant issues, for each fire.
18 • We are unable to propose dates at this time until the Court has established the
19 estimation trial date.

20 With respect to other discovery SLF Claimants will supplement this pleading after they have
21 had an opportunity to confer with other counsel.

22 Lastly, in its Order, the court noted the parties should be prepared to discuss “possible
23 mediation.” Order, 5:11. SLF Claimants believe, through the discovery process there may be a flow
24 of enlightenment, such that the Court should consider the appointment of a mediator with any
25 mediation taking place after close of discovery. With respect to mediators, the selection of the
26 mediator is important which parties should be prepared to discuss. For example, is the mediator
27 someone who has substantial experience in wildfire litigation or someone who has general
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1 experience in mass tort litigation or a bankruptcy professional (including former or currently sitting
2 judges) who understand the claim estimation process. Initially, SLF Claimants would be most
3 inclined to have someone with experience in wildfire litigation.

4
5 Dated: August 20, 2019

MARSHACK HAYS LLP

6 /s/ Richard A. Marshack

7 By: _____

RICHARD A. MARSHACK

8 DAVID A. WOOD

Attorneys for SINGLETON LAW FIRM

9 FIRE VICTIM CLAIMANTS

10 Dated: August 20, 2019

SINGLETON LAW FIRM, APC

11 /s/ Gerald Singleton

12 By: _____

GERALD SINGLETON

13 AMANDA W. LOCURTO

Attorneys for SINGLETON LAW FIRM

14 FIRE VICTIM CLAIMANTS